

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WILFREDO TORRES, :

Plaintiff, :

-against- :

BELLEVUE SOUTH ASSOCIATES, ET AL., :

Defendants. :

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KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 10/10/18

ORDER

16-CV-2362 (RA)(KNF)

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. *See Walker v. Schult*, 717 F.3d 119, 123 n. 6 (2d Cir. 2013); *see also* 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process ... in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP). Rule 4(m) of the Federal Rules of Civil Procedure generally requires service of the summons and complaint to be completed within 90 days of the date the summons issues, and it is Plaintiff's responsibility to request, if necessary, an extension of time for service. *Meilleur v. Strong*, 682 F.3d 56, 63 (2d Cir. 2012). *But see Murray v. Pataki*, 378 F. App'x 50, 52 (2d Cir. 2010) (summary order) ("As long as the [plaintiff proceeding IFP] provides the information necessary to identify the defendant, the Marshals' failure to effect service automatically constitutes 'good cause' for an extension of time within the meaning of Rule 4(m).").

To allow Plaintiff to effect service on Defendants Lieutenant James Scordus, New York City Fire Department, 9 Metro Tech Center Court Desk, Brooklyn, New York 11201, Firefighter John Pepe, New York City Fire Department, 9 Metro Tech Center Court Desk, Brooklyn, New York 11201 and Firefighter Daniel Barvels, New York City Fire Department, 9 Metro Tech Center Court Desk, Brooklyn, New York 11201, through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form ("USM-285 form") for each of these defendants. The

Clerk of Court is further instructed to issue a summons and deliver to the Marshals Service all of the paperwork necessary for the Marshals Service to effect service upon these defendants.

Plaintiff must notify the Court in writing if his address changes, and the court may dismiss the action if Plaintiff fails to do so.

Dated: October 10, 2018
New York, New York

SO ORDERED:

Copy mailed to:

Wilfredo Torres


KEVIN NATHANIEL FOX
UNITED STATES MAGISTRATE JUDGE